IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35048 of 2005(V)

PETITIONER:

P.SISUPALAN, SANTHIBHAVAN,
KARIKKAKAM, BEACH P.O., THIRUVANANTHAPURAM
DISTRICT.

BY ADV. SRI.D.KRISHNA PRASAD
SRI.D.NARENDRANATH
SRI.M.HARISHARMA
SRI.T.P.ELDHOSE
SMT.O.K.SANTHA

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

2. THE SUB COLLECTOR, THIRUVANANTHAPURAM.

3. THE REVENUE DIVISIONAL OFFICER,
THIRUVANANTHAPURAM.

4. THE TAHSILDAR,
KADAKAMPALLY.

BY G.P. SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF COMMENCEMENT CERTIFICATE NO. TAP3/2705/94 DATED 25.8.94 ISSUED BY THE THIRUVANANTHAPURAM DEVELOPMENT AUTHORITY.

EXT.P2 TRUE COPY OF ASSESSMENT ORDER DATED 24.12.2002 ISSUED BY THE FOURTH RESPONDENT.

EXT.P3 TRUE COPY OF DEMAND SNOTICE DATED 24.12.2002 ISSUED BY THE ASSESSING AUTHORITY UNDER THE KERALA BUILDING TAX ACT.

EXT.P4 TRUE COPY OF THE ORDER DATED 5.6.2003 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 TRUE COPY OF MEMORANDUM OF REVISION DATED 9.2.2005 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P6 TRUE COPY OF THE ORDER DATED 15.3.2005 OF THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 35048 OF 2005

Dated this the 30th day of November, 2007

JUDGMENT

Petitioner is challenging the assessment and demand of luxury tax in respect of a residential building constructed by the petitioner. Even though petitioner claims that building was constructed before 1.4.1999, it is seen from the records available with Government Pleader that petitioner himself filed returns declaring the date of completion of construction as July, 2000 and the date of occupancy as1.9.2002. In these circumstances, petitioner's contention has to be necessarily rejected and I do so.

2. The next dispute is with regard to plinth areas of the building. While the case of the Tahsildar is that plinth area of the building is 294 sq. metres, petitioner's case is that plinth area is only 264 sq. metres. It is for the petitioner to measure the plinth area of the building by himself or with the assistance of some qualified person and satisfy about the correctness of the plinth area assessed by the Tahsildar. However, even after re-measurement petitioner bona fide believes that

Tahsildar has committed a mistake, petitioner is free to make a request to the Tahsildar along with a copy of this judgment, and his measurement report showing the plinth area found by him, for the Tahsildar to get the measurement done by the Asst. Exe. Engineer, PWD. However, if on measurement by the Asst. Exe. Engineer at the request of the Tahsildar, the plinth area is found to be in excess of 278.7 sq. metres, or excess thereof, then besides luxury tax arrears, the Tahsildar will recover a further sum of Rs. 5,000/- towards cost for unnecessarily dragging the Asst. Exe. Engineer also in the matter leading to waste of time of the Govt. official. Recovery of luxury tax will remain stayed for four months from now and in between the matter will be sorted out as above. If the petitioner finds there is no case for him, it is for him to make payment to avoid cost and interest.

(C.N. RAMACHANDRAN NAIR)
Judge